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9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 GOOGLE LLC,

13 Plaintiff,

14 vs.

15 SONOS, INC.,

16 Defendant.

CASE NO. 3:20-cv-06754-WHA

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO FILE UNDER SEAL
PORTIONS OF THE PARTIES' JOINT
DISCOVERY LETTER**

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Plaintiff Google LLC (“Google”) hereby requests to file under seal portions of the parties’ Joint Discovery Letter regarding Topic No. 6 of Google’s Federal Rule of Civil Procedure 30(b)(6) Notice of Deposition to Sonos, Inc. (“Sonos”) (“Joint Discovery Letter”). Specifically, Google requests an order granting leave to file under seal the portions of the documents listed below:

Document	Portions to Be Filed Under Seal	Designating Party
Joint Discovery Letter	Portions highlighted in green	Google and Sonos
Joint Discovery Letter Exhibit 1 (“Exhibit 1”)	Portions highlighted in green	Google and Sonos

II. LEGAL STANDARD

Civil Local Rule 79-5(c) provides that a party seeking to file its own documents under seal must file an administrative motion that articulates the applicable legal standard and reasons for keeping a document under seal, includes evidentiary support from a declaration where necessary, and provides a proposed order that is narrowly tailored to seal only the sealable material.

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). In the Ninth Circuit, two different standards may apply to a request to seal a document – namely the “compelling reasons” standard or the “good cause” standard. *Blessing v. Plex Sys., Inc.*, No. 21-CV-05951-PJH, 2021 WL 6064006, at *12 (N.D. Cal. Dec. 22, 2021) (citing *Ctr. For Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1096-97 (9th Cir. 2016)). “To seal records in connection with a ‘dispositive’ motion or a motion that ‘more than tangentially relate[s] to the merits of a case,’ ‘compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure’ are required.” *Bronson v. Samsung Elecs. Am., Inc.*, No. C 18-02300-WHA, 2019 WL 7810811, at *1 (N.D. Cal. May 28, 2019) (quoting *Kamakana*, 447 F.3d at 1178-79). “A particularized showing of ‘good cause’ under Federal Rule

1 of Civil Procedure 26(c), however, suffices to warrant sealing in connection with a non-dispositive
 2 motion.” *Id.* Accordingly, courts analyze sealing requests in connection with discovery motions
 3 pursuant to a “good cause” standard. *See Intel Corp. v. Tela Innovations, Inc.*, No. 3:18-CV-02848-
 4 WHO, 2018 WL 4501146, at *3 (N.D. Cal. Sept. 18, 2018).

5 **III. THE COURT SHOULD SEAL GOOGLE’S CONFIDENTIAL INFORMATION**

6 Material that is confidential and could harm a litigant’s competitive standing if disclosed
 7 may be sealed under the good cause standard. *See, e.g., Skillz Platform Inc. v. AviaGames Inc.*, No.
 8 21-CV-02436-BLF, 2022 WL 875654, at *2 (N.D. Cal. Mar. 24, 2022) (finding “good cause to file
 9 the documents and portions of documents at issue under seal given the sensitive financial and
 10 business information they contain”); *Dugan v. Lloyds TSB Bank, PLC*, No. 12-CV-02549-WHA
 11 NJV, 2013 WL 1435223, at *2 (N.D. Cal. Apr. 9, 2013) (“There may be ‘good cause’ to seal records
 12 that are privileged, contain trade secrets, contain confidential research, development or commercial
 13 information, or if disclosure of the information might harm a litigant’s competitive standing.”).

14 The green-highlighted portions of the Joint Discovery Letter and Exhibit 1 contain
 15 confidential business information that could significantly harm Google’s competitive standing if
 16 disclosed. Specifically, they include terms to confidential agreements that are not public. The
 17 public disclosure of this information would harm Google’s competitive standing and its ability to
 18 negotiate future agreements by giving competitors access to Google’s highly confidential business
 19 thinking and asymmetrical information about Google’s collaboration strategies to other entities.
 20 Declaration of Jocelyn Ma (“Ma Decl.”) ¶ 4. A less restrictive alternative than sealing the
 21 highlighted portions of the Joint Discovery Letter and Exhibit 1 would not be sufficient because the
 22 information sought to be sealed is Google’s proprietary and confidential business information but is
 23 integral to the parties’ Joint Discovery Letter. *Id.* Because courts routinely seal confidential
 24 business information that “if made public, would give [] competitors an unfair advantage and
 25 negatively impact [] business relationships,” Google has good cause to keep such information under
 26 seal. *Teradata Corp. v. SAP SE*, No. 18-CV-03670-WHO, 2021 WL 6498856, at *1-2 (N.D. Cal.
 27 July 13, 2021); *see also Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, No. 12-CV-
 28 03844-JST, 2015 WL 12976921, at *3 (N.D. Cal. Mar. 31, 2015) (granting motion to seal “sensitive

1 business information regarding the amount of royalties received under a licensing agreement and
 2 also detailed information regarding a confidential licensing and manufacturing agreement” under
 3 the good cause standard). Additionally, this Court has previously granted sealing of similar
 4 information. *See* Dkt. 39.

5 **IV. CONCLUSION**

6 For the foregoing reasons, Google respectfully requests that the Court grant Google’s
 7 Administrative Motion to File Portions of the Parties’ Joint Discovery Letter Under Seal.

8
 9 DATED: August 19, 2022

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ATTESTATION

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on August 19, 2022, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

DATED: August 19, 2022

By: /s/ Charles K. Verhoeven
Charles K. Verhoeven